



AN ACT REVISING THE MONTANA TITLE LOAN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO REFUSE TO ISSUE OR RENEW A TITLE LENDER'S LICENSE ON VARIOUS GROUNDS INCLUDING AN APPLICANT'S MAKING MATERIAL MISSTATEMENTS OF FACT; PROVIDING THAT A PERSON MAY NOT APPLY FOR A LICENSE FOR 1 YEAR FOLLOWING A DENIAL OR REFUSAL BY THE DEPARTMENT TO ISSUE OR RENEW A LICENSE; PROVIDING THAT THE VIOLATION OF CERTAIN SPECIFIED FEDERAL ACTS, INCLUDING THE TRUTH IN LENDING ACT AND THE FAIR CREDIT REPORTING ACT, IS ALSO A VIOLATION OF THE MONTANA TITLE LOAN ACT; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; REVISING THE DEPARTMENT'S FEES FOR EXAMINING LICENSEES; AND AMENDING SECTIONS 31-1-805 AND 31-1-810, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Denial of license and license renewal. (1) (a) Except as provided in subsection (1)(b), the department shall deny any new license or refuse to renew any license if:

(i) the applicant does not meet the qualifications stated in this part or in rules adopted pursuant to this part;

(ii) the department finds that the criminal history of any employee of the applicant at the time of application or renewal demonstrates any conviction involving fraud or financial dishonesty or if the department's findings show civil judgments involving fraudulent or dishonest financial dealings; or

(iii) the applicant makes any material misstatement of fact or any material omission of fact in the application.

(b) A denial is not required pursuant to subsection (1)(a)(ii) if the department finds that the applicant dismissed the employee promptly upon learning of the employee's conviction involving fraud or financial dishonesty or of civil judgments involving fraudulent or dishonest financial dealings by the employee.

(2) The department shall provide written notice to the applicant of the denial or refusal in writing, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) The applicant has the right to a hearing under the Montana Administrative Procedure Act on any denial or refusal to issue a license. The request for a hearing must be made within 10 days of the date of receipt of the written notice of denial or refusal.

(4) An applicant whose application for licensure or renewal has been denied or refused may not reapply for 1 year following the denial or refusal.

Section 2. Violation of specified federal laws -- rulemaking authority. (1) A violation of any applicable provision of the Truth in Lending Act, 15 U.S.C. 1601, et seq., the Equal Credit Opportunity Act, 15 U.S.C. 1691, et seq., the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq., the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq., the Financial Services Modernization Act of 1999 (Gramm-Leach-Bliley Act), 15 U.S.C. 6801, et seq., the USA PATRIOT Act of 2001, as reauthorized, Public Law 107-56, or the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation promulgated under those acts is also a violation of this part.

(2) The department shall adopt rules to implement this section.

Section 3. Section 31-1-805, MCA, is amended to read:

"31-1-805. Qualifications for licensure. (1) To be eligible for licensure as a title lender, an applicant must be a natural person residing in this state, a business entity formed under the laws of this state, or a foreign business entity qualified to conduct business in this state.

(2) (a) The application for licensure must be in writing, under oath, and in the form prescribed by the department.

(b) The application must contain:

(i) the name of the applicant;

(ii) the date of formation if a business entity;

(iii) the physical address of each title loan office to be operated;

(iv) the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees, and principal officers; and

(v) any other pertinent information that the department may require.

~~(3) The department may not issue or renew a license if findings are made that the criminal history of any~~

~~employees of the applicant at the time of application demonstrates any convictions involving fraud or financial dishonesty or if the findings show civil judgments involving fraudulent or dishonest financial dealings.~~

~~(4)~~(3) An applicant for licensure shall pay an application fee of \$500, unless less than 6 months remain in the calendar year, in which case the fee is \$250, and an annual license renewal fee of \$500 for each title loan office that the applicant intends to operate or operates in this state.

~~(5)~~(4) (a) Each license must specify the location of the specific title loan office to which it applies and must be conspicuously displayed in the title loan office.

(b) Before any title loan office location may be changed or moved by the title lender, the department shall approve the change of location by endorsing the license for that title loan office or mailing the licensee a new license for that title loan office without charge.

~~(6)~~(5) (a) Upon the filing of the application and the payment of the fee by a person eligible to apply for a title lender's license, the department shall issue a license to the applicant to engage in the title loan business in accordance with the provisions of this part for a period that expires on the last day of December following the date of its issuance.

(b) Each license must be uniquely numbered and may not be transferred or assigned. Renewal licenses are effective for a period of 1 year.

~~(7)~~(6) Each licensee shall post a bond in the amount of \$10,000 for each location. The bond must continue in effect for 2 years after the licensee ceases operation in this state. The bond must be available to pay damages and penalties to consumers harmed by a violation of this part.

~~(8)~~(7) More than one place of business may not be maintained under the same license, but the department may issue more than one license to the same licensee if the licensee is otherwise qualified."

Section 4. Section 31-1-810, MCA, is amended to read:

"31-1-810. Examinations -- fees. (1) The department may conduct an examination of a licensee's title lending operation at any time to ensure that the licensee is in compliance with the provisions of this part.

(2) A licensee shall pay the department a fee in the amount of ~~\$300 a day~~ \$37.50 an hour for each examiner required to conduct an annual examination.

(3) A licensee shall make available to a department examiner the information required under 31-1-815 or as required by rule.

(4) Completion of an annual examination must, in the absence of the department's finding of just cause to revoke or suspend a license, constitute grounds for license renewal."

Section 5. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 31, chapter 1, part 8, and the provisions of Title 31, chapter 1, part 8, apply to [sections 1 and 2].

- END -

I hereby certify that the within bill,
SB 0047, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2009.

Speaker of the House

Signed this _____ day
of _____, 2009.

SENATE BILL NO. 47
INTRODUCED BY D. STEINBEISSER
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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